

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RALPH MCCLAIN,	:	Civil No. 1:19-cv-1951
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
PENNSYLVANIA DEPARTMENT	:	
OF CORRECTIONS, et al.,	:	
	:	
Defendants.	:	Judge Sylvia H. Rambo

ORDER

Before the court is a report and recommendation of Magistrate Judge Martin Carlson (Doc. 14) in which he recommends that Defendants' motion to dismiss be granted in part and denied in part. Objections to the report and recommendation were due by February 19, 2020, but to date, no objections have been filed.

In considering whether to adopt a report and recommendation when no objections have been filed, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (explaining that judges should review dispositive legal issues raised by the report for clear error). Following an independent review of the record, the court is satisfied that the report and recommendation contains no clear error and will therefore adopt the recommendation.

Accordingly, **IT IS HEREBY ORDERED AS FOLLOWS:**

- 1) The report and recommendation of the magistrate judge (Doc. 14) is **ADOPTED**.
- 2) Defendants' motion to dismiss plaintiff's complaint (Doc. 5) is **GRANTED IN PART AND DENIED IN PART** as follows:
 - a. The motion is denied with respect to Plaintiff's Eighth Amendment claim against the individual defendants, without prejudice to renewal through a properly documented motion for summary judgment; and
 - b. The motion is granted with respect to Section 1983 claims lodged against the Pennsylvania Department of Corrections.
- 3) This matter is remanded to the magistrate judge for further proceedings.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: April 7, 2020